

Moultonborough Zoning Board of Adjustment
P.O. Box 139
Moultonborough, NH 03254

Regular Meeting

May 4, 2016

Minutes

Present: Members: Bob Stephens, Russ Nolin, Ken Bickford
 Alternates: Richard Jenny, Nick DeMeo
Excused: Members: Bob Zewski, Robert St. Peter
 Alternates: Jerry Hopkins, Paul Onthank
Staff Present: Administrative Assistant, Bonnie Whitney

I. Call to Order

Chairman Stephens called the meeting to order at 7:00 PM and led the Pledge of Allegiance. He then introduced the members of the board to the public. Mr. Stephens appointed Rich Jenny and Nick DeMeo to sit on the board with full voting privileges in place of members Bob Zewski and Rob St. Peter.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Bickford moved to approve the Zoning Board of Adjustment Minutes of April 20th, 2016, as written, seconded by Mr. Jenny, carried unanimously, with Mr. DeMeo abstaining.

IV. Hearings

1. Walter H. Michalke III (99-69) (54 Eden Lane)
 Variance from Article III.B.3

Chairman Stephens stated that this is a request for a variance to allow for the construction of an addition to an existing deck to be located 15 feet from the side line where 20 feet is required.

Mike Quinn presented the application on behalf of Walter and Sheila Michalke, noting he was the building contractor working on the project. Mr. Quinn briefly stated the property is to become the Michalke's retirement home in the next few years. The request for the variance is for in the future, in their retirement if they needed handicap access it would be very easy to remove the stairs and put up a ramp.

The Chair asked for clarification that they were asking for the extension in the event that someday they may need a handicap access, or you're providing the handicap access now? Mr. Quinn stated he would be providing the access now, but there is no physical need at the moment. The Chair stated the reason he asked the question is that there is a provision that allows for a handicap access based on a hardship. Mr. Quinn replied he understood that, and was not asking for that. Mr. Quinn stated that he is building a new deck, and at this time it would easier to do this at one time, instead of adding on to it in the future.

The Chair asked how far the current deck was from the side line. Mr. Quinn stated 20 feet.

One abutter letter of support was noted for the record.

Mr. Stephens opened the hearing for public input at this time, noting there was none.

Mr. Stephens asked if there were any questions from the board at this time. It was noted that there were none. The board went into deliberative session to discuss each of the criteria for the granting of a variance at 7:10 PM and came out of deliberative session at 7:15 PM.

There was no further input from the Board or public. The voting members were Bob, Ken, Russ, Nick and Rich.

Motion: Mr. DeMeo moved to grant the request for a variance from Article III.B (4) for Walter H. Michalke III, Tax Map 99, Lot 69, and further to close the public hearing and to direct staff to draft a formal Notice of Decision for Board discussion only, based on the Finding of Facts during tonight's hearing, which will be reviewed for accuracy only and signed by the Chair at the next scheduled meeting, seconded by Mr. Nolin, motion passed, five (5) in favor (Stephens, Bickford, Nolin, DeMeo, Jenny) and none (0) opposed.

Mr. Stephens noted the right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

2. Continued Public Hearing for Leon & Cheryl Haydon (252-23) (Winaukee Road)
Variance from Article III.B. 1 & 3

Chairman Stephens stated that this is a continuation for a variance from Article III.B. 1 & 3 to build a two-car garage, one story garage attached to an existing barn. The Chair stated that the board had heard the application on April 20th and during the hearing there were a few issues and questions that were raised. A motion was made and approved to continue the hearing for the purpose of getting the Police Chief and the Road Agents input regarding safety concerns. Mr. Bickford met on site with both Chief Wetherbee and Highway Forman Wakefield. Members were provided with a report from each of them.

Mr. Bickford briefly explained to the board what took place when he met individually with each the Chief and Highway Forman. He indicated that Chief Wetherbee and Officer Melanson looked around briefly and noted that they thought there was adequate sight distance in each direction on the main road, and with a speed limit of 30 mph it was more than safe to back out of the garage area. He did not think there was a problem at all. Also noted traffic exiting Ben Ayers Road must come to a full stop before turning onto Winaukee Road, so that was not a safety issue either. After the Chief left, he met with Mr. Wakefield who basically concurred with the Chiefs findings. He didn't think that there was any issue from a safety standpoint.

The Chair clarified for the record something in which he erred on at the prior hearing, and was brought to his attention. The application presented is for that piece of property (Tax Map 252, Lot 23) and that piece of property only, and anything else that the applicant may own is not part of the discussion this evening. Anything else that he may have presented at the prior hearing probably was not applicable.

Lee Haydon addressed what he thought were the two main questions raised at the prior hearing. The first was the request for more precise measurements of where the garage was going to go, and secondly assure that the garage was be located completely on his property. Mr. Haydon provided a revised sketch in which he drafted utilizing a copy of the town's tax maps. Explaining that he tried to mark very precisely where Dolan's survey had the property pins. He stated that he knew exactly where the pin was located that abuts the right-of-way and the back pin where is abuts Crosswinds property. He

stated that the garage can be 100% with his property. The Chairman commented that the other two pins are not shown on the sketch. Mr. Haydon stated that he cannot find them. The Chair then questioned how Mr. Haydon determined the front and rear lines shown in yellow on the illustration. Mr. Haydon stated the lines were from the computer map. He went on to explain how he would site the garage and why he felt that it would fit in its entirety on his lot. Noting the lot is 25.55' in width on the narrow end and opened up slightly towards the barn to about 27', so he should have plenty of room.

Members had not realized that a portion of the existing barn is located within the right of way, commenting you would not build a garage without surveying the property, as you would not know where you're building it. Mr. Haydon replied that the survey pins are the original pins that Dolan set. Members discussed the siting of the garage, with the Chair stating that it has been the practice of the board, in which someone is applying for a variance that is very tight, too avoid the possibility of the board approving something that is literally built on someone else's land because of someone thinking this is my property, you need to get it pinned. If these are bonafide pins, it shouldn't be a complicated matter for a surveyor to set the two other pins. Mr. Haydon interpreted this that he thought what was important from the board's perspective was not that he found the other two pins, but that he found precisely where he needs to site the garage. The Chairman clarified that by "pinning the foundation" a term that means you can verify its location in relationship to the property. That's the intent.

Lee Haydon presented his application for the variance on Tax Map 252, Lot 23. Mr. Haydon gave a brief history of the property, noting there is an existing barn which was built in approximately 1830. It was a horse barn originally built on his lot across the street, which is a part of Crosswinds. The barn was moved to its present location on Tax Map 252, Lot 23. Lot 23 may not be conveyed separately from Mr. Haydon's abutting property, Tax Map 252, Lot 5. Mr. Haydon noted the only direct abutter is the Crosswinds Association Common Land to the side and rear and it is for septic, storage, boat trailer storage and open space. The septic fields are directly behind his property line.

Members briefly discussed the fact that the movements for access and egress for the garage would all take place within the right of way. Mr. Haydon pointed out other improvements which are currently located within the right of way. The Chairman commented that the proposal would not preclude him from parking on a right of way. He can't build in it, but you can park in it. Members acknowledged that the barn and ramp are located in the right of way.

Mr. Stephens noted that there were no members from the public present for this hearing.

The board went into deliberative session to discuss each of the criteria for the granting of a variance at 7:34 PM and came out of deliberative session at 7:58 PM.

Mr. Stephens asked if there were any additional questions or comments from the board or the applicant at this time. Mr. Haydon commented that their abutting land is common land of Crosswinds Association and that their bylaws do not allow any additional homes other than the existing 29 homes, so the likelihood of a home being constructed to the rear of his lot is not realistic.

The voting members were Bob S., Ken, Russ, Nick and Rich.

Motion: Mr. DeMeo moved to deny the request for variance for Leon Haydon, Tax Map 252 Lot 23, close the public hearing, and to direct staff to draft a formal Notice of Decision, for Board discussion only, based on the Finding of Facts during tonight's hearing, which will be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Nolin, motion passed, four (4) in favor (Bickford, Nolin, DeMeo, Jenny) and one (1) opposed (Stephens).

Mr. Stephens noted the right to appeal in accordance with NH RSA 677:2 would begin

tomorrow.

V. Correspondence

Members were in receipt of an email from Sandra Hughes Cripps dated April 28th. The Chair commented he saw two issues in her communication; one was not germane to the application. The dates were not germane to the application before the board. The ability to challenge the issuance of a building permit is a 30 day period. That is an administrative decision and went by the wayside. Mr. Nolin commented that it was tough for a person to know when a permit was pulled. Mr. Stephens agreed, stating that was a fallacy of the system. The second issue had to deal with what Ms. Cripps was indicating that Mr. Bickford had said, when it was actually Mr. Stephens. For clarification, Mr. Stephens had asked staff to listen to the discussion that took place during Mr. Bickford's motion. Ms. Cripps states that Mr. Bickford stated "if" and when Mr. Corr was planning on doing anything different, he would have to come back through zoning. What Mr. Stephens had said was any change to the usage of the building would have to come back through the town. Specifically meaning they would have to go to Don Cahoon first, and he would determine whether or not that required them to come to the ZBA. Mr. Nolin feels that is a misunderstanding on their part, when Mr. Stephens said the "Town". The Chair stated he was very clear on that, as opposed to "zoning". The Chair stated that they're not in a hearing. He wanted to note their communication and clarify those two points.

VI. Unfinished Business

1. Review and possible authorization for the Chairman to sign the formal Notice of Decision for the April 20th, 2016 granting of a variance for William R. Halliday and Karen Palma-Halliday, for a parcel located at 180 Wentworth Shores Road (Tax Map 147, Lot 29).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the Hearing on April 20th. There were no changes made to the draft.

Motion: Mr. Nolin moved to approve the formal Notice of Decision as written for William R. Halliday and Karen Palma-Halliday (147-29) and to authorize the Chairman to sign and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. Bickford, motion passed, five (5) in favor (Stephens, Bickford, Nolin, DeMeo, Jenny), and none (0) opposed.

2. Review and possible authorization for the Chairman to sign the formal Notice of Decision for the April 20th, 2016 granting of a variance for Bryan and Linda Corr, for a parcel located at 46 Deerhaven Road (Tax Map 270, Lot 4).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the Hearing on March 16th. There were no changes made to the draft.

Motion: Mr. Nolin moved to approve the formal Notice of Decision as written for Bryan and Linda Corr (270-4) and to authorize the Chairman to sign and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. Bickford, motion passed, five (5) in favor (Stephens, Bickford, Nolin, DeMeo, Jenny), and none (0) opposed.

3. Review and possible authorization for the Chair to sign the formal Notice of Decision for the April 20th, 2016 granting of a variance for Sixteen Clearwater Point Road Realty Trust, Laurie Anne Tocco-Burns, Trustee, for a parcel located at 16 Clearwater Point Road (TM 174, Lot 64).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the Hearing on April 20th. There were no changes made to the draft.

Motion: Mr. Nolin moved to approve the formal Notice of Decision as written for Sixteen Clearwater Point Road Realty Trust, Laurie Anne Tocco-Burns, Trustee (174-64) and to authorize the Chairman to sign and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. Bickford, motion passed, five (5) in favor (Stephens, Bickford, Nolin, DeMeo, Jenny), and none (0) opposed.

4. Mr. Stephens reminded members of the annual NH OEP Spring Planning & Zoning Conference being held on Saturday, June 4th at the Courtyard by Marriott, Grappone Conference Center in Concord. He questioned who would be attending and asked if they should reserve the van for carpooling. He will let staff know if they choose to use the town van.

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:14 PM, seconded by Mr. Nolin, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant

NOTICE: These DRAFT Minutes have not been formally approved by the Zoning Board of Adjustment. Please contact the Office of Development Services after the next regularly scheduled meeting of the Moultonborough Zoning Board of Adjustment to be held on the 1st and 3rd Wednesday of each month, to learn if any corrections, additions or deletions were made.